

Juanita R. Brooks, SBN 75934, brooks@fr.com
Todd G. Miller, SBN 163200, miller@fr.com
Fish & Richardson P.C.
12390 El Camino Real
San Diego, CA 92130
Telephone: (858) 678-5070
Facsimile: (858) 678-5099

Additional counsel listed on following page

Attorneys for Plaintiffs and Counterdefendants
Fresenius Medical Care Holdings, Inc. and Fresenius USA, Inc.

Michael J. Abernathy, *pro hac vice*, mabernathy@bellboyd.com
Kara E. Cenar, *pro hac vice*, kcenar@bellboyd.com
Sanjay K. Murthy, SBN 212097, smurthy@bellboyd.com
Adam L. Marchuk, *pro hac vice*, amarchuk@bellboyd.com
Bell, Boyd & Lloyd LLP
70 West Madison Street, Suite 3100
Chicago, IL 60602
Telephone: (312) 372-1121
Facsimile: (312) 827-8000

Additional counsel listed on following page

Attorneys for Defendants and Counterclaimants
Baxter International Inc. and Baxter Healthcare Corporation

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

FRESENIUS MEDICAL CARE HOLDINGS,
INC., a New York corporation; and FRESENIUS
USA, INC., a Massachusetts corporation,

Plaintiffs and Counterdefendants,

v.

BAXTER INTERNATIONAL, INC., a
Delaware corporation; and BAXTER
HEALTHCARE CORPORATION, a
Delaware corporation,

Defendants and Counterclaimants.

Case No. C 03-01431 SBA (EDL)

**JOINT STIPULATION AND ORDER
DISMISSING UNITED STATES PATENT
NO. 5,326,476**

Additional Counsel Continued from previous page:

1 Mathias W. Samuel, pro hac vice, samuel@fr.com
Michael E. Florey, pro hac vice, florey@fr.com
2 Thomas S. McClenahan, SBN 203204, mcclenahan@fr.com
Michael J. Pape, pro hac vice, pape@fr.com
3 Fish & Richardson P.C.
60 South Sixth Street, Suite 3300
4 Minneapolis, MN 55402
Telephone: (612) 335-5070
5 Facsimile: (612) 288-9696

6 Limin Zheng, SBN 226875, zheng@fr.com
Fish & Richardson P.C.
7 500 Arguello Street, Suite 500
Redwood City, CA 94053
8 Telephone: (650) 839-5070
Facsimile: (650) 839-5071
9

Attorneys for Plaintiffs and Counterdefendants
10 Fresenius Medical Care Holdings, Inc. and Fresenius USA, Inc.

11
Daniel J. Furniss, SBN 73531, djfurniss@townsend.com
12 Townsend and Townsend and Crew LLP
379 Lytton Avenue
13 Palo Alto, CA 94301
Telephone: (650) 326-2400
14 Facsimile: (650) 326-2422

15 Joseph P. Reagen (admitted pro hac vice) joseph_reagen@baxter.com
BAXTER HEALTHCARE CORPORATION
16 One Baxter Parkway
17 Deerfield, Illinois 60015

Attorneys for Defendants and Counterclaimants
18 Baxter International Inc. and Baxter Healthcare Corporation
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1 Plaintiffs and Counter-defendants FRESenius MEDICAL CARE HOLDINGS, INC. and
2 FRESenius USA, INC. (collectively "Fresenius") and Defendants and Counter-Plaintiffs
3 BAXTER INTERNATIONAL, INC. and BAXTER HEALTHCARE CORPORATION
4 (collectively "Baxter"), by and through their respective counsel, hereby stipulate as follows:

5 1. Baxter is no longer asserting that the only accused product in this case, Fresenius'
6 2008K kidney dialysis machine, infringes any claim of U.S. Patent No. 5,326,476.

7 2. Baxter therefore agrees to dismiss all its claims and counterclaims concerning
8 infringement of U.S. Patent No. 5,326,476.

9 3. Because Baxter is no longer claiming that the only accused product in this case,
10 Fresenius' 2008K kidney dialysis machine, infringes any claim of U.S. Patent No. 5,326,476,
11 Fresenius therefore agrees to dismiss all its claims, counterclaims, and defenses concerning U.S.
12 Patent No. 5,326,476.

13 4. Accordingly, all claims, counterclaims, and defenses of the parties concerning
14 Baxter's U.S. Patent No. 5,326,476 are hereby dismissed with prejudice.

1 Dated: October 15, 2007

FISH & RICHARDSON P.C.

2
3 By: /s/Juanita Brooks

4 Attorneys for Plaintiffs and Counterdefendants
5 FRESNIUS MEDICAL CARE HOLDINGS,
6 INC. and FRESNIUS USA, INC.

7 Dated: October 15, 2007


BELL, BOYD & LLOYD LLP

8
9 By: /s/Michael Abernathy

10 Attorneys for Defendants and Counterclaimants
11 BAXTER INTERNATIONAL INC. and
12 BAXTER HEALTHCARE CORPORATION

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14 **IT IS SO ORDERED.**

15 Dated: 10/16/07

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17 By: 
18 HON. SAUNDRA B. ARMSTRONG
19 United States District Court Judge
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1 Pursuant to General Order No. 45, Section X(B) regarding signatures, I attest under
2 penalty of perjury that concurrence in the filing of this document has been obtained from Michael
3 Abernathy.

4 Dated: October 15, 2007

FISH & RICHARDSON P.C.

5
6 By: /s/Juanita Brooks

7 Attorneys for Plaintiffs and Counterdefendants

8 FRESENIUS MEDICAL CARE HOLDINGS, INC.
9 and FRESENIUS USA, INC.
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